EXHIBIT NO. 2.

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON 25, D. C.

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PUBLIC NOTICE

September 8, 1954

USE OF BROADCAST FACILITIES BY CANDIDATES FOR PUBLIC OFFICE

In accordance with the mandate of section 315 of the Communications Act of 1934, as amended, the Commission on September 2, 1954, revised its rules relating to rates charged for political broadcasts coming within the provisions of section 315 (Docket No. 11092). We believe it is appropriate, at this time, as an aid to licensees in handling various questions which may arise under section 315 of the act to recapitulate in this document the provisions of the act and the Commission's rules adopted in implementation thereof, together with a brief summary of some of the more important questions which have been raised by interested parties in recent years with respect to the obligations of licensees under this section and the Commission's determinations thereon.

The information contained herein does not purport to be a discussion of every problem that may arise in the political broadcast field. It is rather a codification of the determinations of the Commission with respect to the problems which have been presented to it and which appear likely to be involved in future campaigns. The purpose of this report is the clarification of licensee responsibility and course of action when situations discussed herein are encountered. In this way, resort to the Commission may be obviated in many instances, and time—which is of such importance in political campaigns—will be conserved. We do not mean to preclude inquiries to the Commission when there is a bona fide doubt as to a licensee's obligations under section 315. But it is believed that the following discussion will, in many instances, remove the need for such inquiries and that licensees will be able to take the necessary prompt action in these cases involving election campaigns in accordance with the interpretations and positions set forth below.

It is to be emphasized that this discussion relates solely to obligations of broadcast licensees under section 315 of the Communications Act and is not intended to treat with the wholly separate question of the treatment by broadcast licensees in the public interest of political or other controversial programs or discussions not falling within the specific provisions of that section. With respect to the responsibilities of broadcast stations for insuring fair and balanced presentation of programs not coming within section 315, but relating to important public issues of a controversial nature including political broadcasts, licensees are referred to the Commission's Report, "Editorializing by Broadcast Licensees" (Release No. 215, June 2, 1949) and the cases cited therein. In this respect it is particularly important that licensees recognize that the special obligations imposed upon them by the provisions of section 315 of the Communications Act with respect to certain types of political broadcasts do not in any way limit the applicability of general public interest concepts to political broadcasts not falling within the provisions of section 315 of the Communications Act. On the contrary, in view of the obvious importance of such programming to our system of representative government it is clear that these precepts, as set forth in the Report referred to above are of particular applicability to such programming.

We have adopted a question-and-answer format as an appropriate means of delineating the section 315 problems. Wherever possible,[1] references to Commission decisions or rulings are made so that the researcher may, if he desires, profit by the more thorough or expansive statement of the Commission's position found in such decisions. Copies of rulings not otherwise available may be found in a "Political Broadcast" folder kept in the Commission's Public Reference Room.

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[1] A few of the questions taken up within have been presented to the Commission informally—that is, through telephone conversations or conferences with station representatives. They are set out in this Report because of the likelihood of their reoccurrence and the fact that no extended Commission discussion is necessary to dispose of them; the answer in each case is clear from the language of section 315.

I. *The Statute.* Section 315 of the Communications Act of 1934, as amended, provides as follows:

SEC. 315. (a) If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate.

(b) The charges made for the use of any broadcasting station for any of the purposes set forth in this section shall not exceed the charges made for comparable use of such station for other purposes.

(c) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

II. *The Commission's rules and regulations with respect to political broadcasts.* The Commission's rules and regulations with respect to political broadcasts coming within section 315 of the Communications Act are set forth in §§ 3.190 (AM), 3.290 (FM), 3.590 (Non-Commercial Educational FM), and 3.657 (TV), respectively. These provisions are identical (except for elimination of any discussion of charges in § 3.590 relating to non-commercial educational FM stations) and read as follows:

Broadcasts by candidates for public office—(a) *Definitions.* A "legally qualified candidate" means any person who has publicly announced that he is a candidate for nomination by a convention of a political party or for nomination or election in a primary, special, or general election, municipal, county, state or national, and who meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate, so that he may be voted for by the electorate directly or by means of delegates or electors, and who

(1) Has qualified for a place on the ballot or

(2) Is eligible under the applicable law to be voted for by sticker, by writing in his name on the ballot, or other method, and

(i) Has been duly nominated by a political party which is commonly known and regarded as such, or

(ii) Makes a substantial showing that he is a bona fide candidate for nomination of office, as the case may be.

(b) *General requirements.* No station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all such other candidates for that office to use such facilities; provided, that such licensee shall have no power of censorship over the materal broadcast by any such candidate.

(c) *Rates and practices.* (1) The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means direct or indirect. A candidate shall, in each case, be charged no more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. All discount privileges otherwise offered by a station to commercial advertisers shall be available upon equal terms to all candidates for public office.

(2) In making time available to candidates for public office no licensee shall make any discrimination between candidates in charges, practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

(d) *Records; inspection.* Every licensee shall keep and permit public inspection of a complete record of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if request is granted.

In addition, the attention of licensees is directed to the provisions of §§ 3.189 (b), 3.289 (b) and 3.654 (b) which provide in identical language:

(b) In the case of any political program or any program involving the discussion of public controversial issues for which any records, transcriptions, talent, scripts, or other material or services of any kind are furnished, either directly or indirectly, to a station as an inducement to the boadcasting of such program, an announcement shall be made both at the beginning and conclusion of such program on which such material or services are used that such records, transcriptions, talent, scripts, or other material or services have been furnished to such station in connection with the broadcasting of such program: provided, however, that only one such announcement need be made in the case of any such program of five minutes' duration or less, which announcement may be made either at the beginning or the conclusion of the program.

III. *Programs coming within section 315.* In general, any use of broadcast facilities by a legally qualified candidate for public office, imposes an obligation on licensees to afford equal opportunities to all other such candidates for the same office.

A. *Types of users.*

1. Q. Does section 315 apply to one speaking for or on behalf of the candidate, as contrasted with the candidate himself?

A. No. The section applies only to legally qualified candidates. Candidate A has no legal right under section 315 to demand time where B, not a candidate, has spoken against A or in behalf of another candidate. (Felix v. Westinghouse Radio Stations 182 F. 2d 1, cert. den. 333 U. S. 876).

2. Q. Where time has been afforded to a party for political talks by non-candidates, must a request for time by spokesmen for another party be honored under section 315?

A. No. Section 315 affords a personal right to candidates only and is not concerned with parties, as such. Idem.

3. Q. Do the provisions of section 315 require stations to afford equal opportunities in the use of their facilities in support of or in opposition to a public question to be voted upon in any election?

A. No. The language and legislative history of section 315 clearly limit the application of this section to legally qualified candidates for public office.

B. *What constitutes a "use" of broadcast facilities entitling opposing candidates to equal opportunities?*

4. Q. If a legally qualified candidate secures air time but does not discuss matters directly related to his candidacy, is this a use of facilities under section 315?

A. Yes. Section 315 does not distinguish between the uses of broadcast time by a candidate, and the licensee is not authorized to pass on requests for time by opposing candidates on the basis of the licensee's evaluation of whether the original use was or was not in aid of a candidacy. (WMCA, Inc. 7 R. R. 1132.)

5. Q. Must a broadcaster give equal time to a candidate whose opponent has broadcast in some other capacity than as a candidate?

A. Yes. For example, a weekly report of a Congressman to his constituents via radio or television is a broadcast by a legally qualified candidate for public office as soon as he becomes a candidate for reelection, and his opponent must be given equal opportunity for time on the air. Any "use" of a station by a candidate, in whatever capacity, entitles his opponent to "equal opportunities." (Station KNGS, 7 R. R. 1130.)

6. Q. If a candidate appears on a variety program for a very brief bow or statement, are his opponents entitled to "equal opportunities" on the basis of this brief appearance?

A. Yes. All appearances of a candidate, no matter how brief or perfunctory, are a "use" of a station's facilities within section 315.

7. Q. If a candidate is accorded station time for a speech in connection with a ceremonial activity or other public service is an opposing candidate entitled to equal utilization of the station's facilities?

A. Yes. Section 315 contains no exception with respect to broadcasts by legally qualified candidates carried "in the public interest" or as a "public service." It follows that the station's broadcast of the candidate's speech was a "use" of the facilities of the station by a legally qualified candidate giving rise to an obligation by the station under section 315 to afford equal opportunity to other legally qualified candidates for the same office. (Letter to CBS (WBBM), dated October 31, 1952; Letter to KFI, dated October 31, 1952.)

8. Q. If a station arranges for a debate between the candidates of two parties, or presents the candidates of two parties in a press conference format or so-called forum program, is the station required to make equal time available to other candidates?

A. Yes. The appearance of candidates on the above types of programs constitutes a "use" of the licensee's facilities by legally qualified candidates and, therefore, other candidates for the same office are entitled to "equal opportunities." (Letter to Harold Oliver, dated October 31, 1952; Letter to Julius F. Brauner, dated October 31, 1952.)

9. Q. Are acceptance speeches by successful candidates for nomination for the candidacy of a particular party for a given office, a use by a legally qualified candidate for election to that office?

A. Yes. Where the successful candidate for nomination becomes legally qualified as a candidate for election as a result of the nomination. (Progressive Party, 7 R. R. 1300.)

IV. *Who is a legally qualified candidate?*

10. Q. How can a station know which candidates are "legally qualified"?

A. The determination as to who is a legally qualified candidate for a particular public office within the meaning of section 315 and the Commission's rules must be determined by reference to the law of the state in which the election is being held. In general, a candidate is legally qualified if he can be voted for in the state or district in which the election is being held, and, if elected, is eligible to serve in the office in question.

11. Q. Need a candidate be on the ballot to be legally qualified?

A. Not always. The term "legally qualified candidate" is not restricted to persons whose names appear on the printed ballot; the term may embrace persons not listed on the ballot if such persons are making a bona fide race for the office involved and the names of such persons, or their electors can, under applicable law, be written in by voters so as to result in their valid election. The Commission recognizes, however, that the mere fact that any name may be written in does not entitle all persons who may publicly announce themselves as candidates to demand time under section 315; broadcast stations may make suitable and reasonable requirements with respect to proof of the bona fide nature of any candidacy on the part of applicants for the use of facilities under section 315. (Sections 3.190, 3.290, 3.657; Socialist Labor Party, 7 R. R. 766; Columbia Broadcasting System, Inc., 7 R. R. 1189; Press Release of November 26, 1941 (Mimeo 55732).)

12. Q. May a station deny a candidate "equal opportunity" because it believes that the candidate has no possibility of being elected or nominated?

A. No. Section 315 does not permit any such subjective determination by the station with respect to a candidate's chances of nomination or election. (Columbia Broadcasting System, Inc., 7 R. R. 1189.)

13. Q. May a person be considered to be a legally qualified candidate where he has made only a public announcement of his candidacy and has not yet filed the required forms or paid the required fees for securing a place on the ballot in either the primary or general elections?

A. The answer depends on applicable state law. In some states persons may be voted for by electorate whether or not they have gone through the procedures required for getting their names placed on the ballot

itself. In such a state, the announcement of a person's candidacy—if determined to be bona fide—is sufficient to bring him within the purview of section 315. In other states, however, candidates may not be "legally qualified" until they have fulfilled certain prescribed procedures. The applicable state laws and the particular facts surrounding the announcement of the candidacy are determinatives. (Letter to Senator Earle C. Clements, dated February 2, 1954.)

14. Q. Must a station make time available upon demand to a candidate of the Communist Party, or a candidate who is a member of the Communist Party, if it has afforded time to that candidate's opponents for the office in question?

A. If the person involved is a legally qualified candidate for the office he is seeking, Section 315 requires "that equal opportunities" be afforded him. It will be recognized that who is a legally qualified candidate is dependent upon federal, state, and local law pertaining to the elective process and is not based upon provisibn of the Communications Act or the Rules of the Commission.

The question of the specific applicability of these principles, in the light of the enactment of the Communist Control Act of 1954, to candidates of the Communist Party or who are members of the Communist Party has not yet been determined.

15. Q. When is a person a legally qualified candidate for nomination as the candidate of a party for President or Vice-President of the United States?

A. In view of the fact that a person may be nominated for these offices by the conventions of his party without having appeared on the ballot of any state having presidential primary elections, or having any pledged votes prior to the convention, or even announcing his willingness to be a candidate, no fixed rule can be promulgated in answer to this question. Whether a person so claiming is in fact a bona fide candidate will depend on the particular facts of each situation, including consideration of what efforts, if any, he has taken to secure delegates or preferential votes in state primaries. It cannot, however, turn on the licensee's evaluation of the claimant's chances for success. (Letter of May 28, 1952 to Julius F. Brauner)

V. When are candidates opposing candidates?

16. Q What public offices are included within the meaning of section 315?

A. Under the Commission's rules, section 315 is applicable to both primary and general elections, and public offices include all offices filed by special or general election on a municipal, county, state or national level as well as the nomination by any recognized party as a candidate for such an office.

17. Q. May the station under section 315 make time available to all candidates for one office and refuse all candidates for another office?

A. Yes. The "equal opportunity" requirement of section 315 is limited to all legally qualified candidates for the same office.

18. Q. If the station makes time available to candidates seeking the nomination of one party for a particular office, does section 315 require that it make equal time available to the candidates seeking the nomination of other parties for the same office?

A. No, the Commission has held that while both primary elections or nominating conventions and general elections are comprehended within the terms of section 315, the primary elections or conventions held by one party are to be considered separately from the primary elections or conventions of other parties, and therefore, insofar as section 315 is concerned, "equal opportunities" need only be afforded legally qualified candidates for nomination for the same office at the same party's primary or nominating convention. (KWFT, Inc., 4 R. R. 885; Letter to Arnold Petersen, May 13, 1952; Letter to WCDL, April 3, 1953.)

19. Q. If the station makes time available to all candidates of one party for nomination for a particular office, including the successful candidate, may candidates of other parties in the general election demand an equal amount of time under section 315?

A. No. For the reason given above. (KWFT, Inc., 4 R. R. 885.)

VI. What constitutes equal opportunities?

20. Q. Generally speaking, what constitutes equal opportunities?

A. Under section 315 and §§ 3.190, 3.290, and 3.657 of the Commission's rules, no licensee shall make any discrimination in charges, practices, regulations, facilities, or services rendered to candidates for a particular office.

21. Q. Is a licensee required or allowed to give time free to one candidate where it had sold time to an opposing candidate?

A. The licensee is not permitted to discriminate between the candidates in any way. With respect to any particular election it may adopt a policy of selling time, or of giving time to the candidates free of charge, or of giving them some time and selling them additional time. But whatever policy it adopts it must treat all candidates for the same office alike with respect to the time they may secure free and that for which they must pay.

22. Q. Is a station's obligation under section 315 met if it offers a candidate the same amount of time an opposing candidate has received, where the time of the day or week afforded the first candidate is superior to that offered his opponent?

A. No. The station in providing equal opportunities must consider the desirability of the time segment allotted as well as its length. And while there is no requirement that a station afford candidate B exactly the same time of day on exactly the same day of the week as candidate A, the time segments offered must be comparable as to desirability.

23. Q. Is it necessary for a station to advise a candidate or a political party that time has been sold to other candidates?

A. No. The law does not require that this be done. If a candidate inquires, however, the facts must be given him. It should be noted here that a station is required to keep a public record of all requests for time by or on behalf of political candidates, together with a record of the disposition and the charges made, if any, for each broadcast. (Sections 3.190 (d), 3.290 (d), 3.657 (d).)

24. Q. If one political candidate buys station facilities more heavily than another, is a station required to call a halt to such sales because of the resulting unbalance?

A. No. Section 315 requires only that all candidates be afforded an equal opportunity to use the facilities of the station. (Letter to Mrs. M. R. Oliver, dated October 23, 1952.)

25. Q. If the candidate has received free time for a period of time and subsequently a second candidate announces his candidacy, is the second candidate entitled to equal facilities retroactive to the date when the first candidate announced his candidacy?

A. Normally yes. Once the station has made time available to one qualified candidate, its obligation to provide equal facilities to future candidates begins. A candidate cannot, however, delay his request for time and expect to use the "equal opportunities" provision to force a station to turn over most of the last few pre-election days to him in order to "saturate" pre-election broadcast time. (Letter to Congressman Hunter, dated May 28, 1952; Letter to Congressman Frelinghuysen, dated March 2, 1954.)

26. Q. If a station has a policy of confining political broadcasts to sustaining time, but has so many requests for political time that it cannot handle them all within its sustaining schedule, may it refuse time to a candidate whose opponent has already been granted time, on the basis of its established policy of not cancelling commercial programs in favor of political broadcasts?

A. No. The station cannot rely upon its policy if the latter conflicts with the "equal opportunity" requirement of section 315. (Stephens Bctg. Co., 3 R. R. 1.)

27. Q. If one candidate has been nominated by Parties A, B, and C, while a second candidate for the same office is nominated only by Party D, how should time be allocated as between the two candidates?

A. Section 315 has reference only to the use of facilities by persons who are candidates for public office and not to the political parties which may have nominated such candidates. Accordingly, if broadcast time is made available for the use of a candidate for public office, the provisions of section 315 require that equal opportunity be afforded each person who is a candidate for the same office, without regard to the number of nominations that any particular candidate may have. (Letter to Thomas W. Wilson, dated October 31, 1946.)

28. Q. If a station broadcasts a program sponsored by a commercial advertiser which includes one or more qualified candidates as speakers or guests, what are its obligations with respect to affording equal opportunities to other candidates for the same office?

A. If candidates are permitted to appear, without cost to themselves, on programs sponsored by commercial advertisers, opposing candidates are entitled to receive comparable time, also at no cost. (Letter to Senator Monroney, dated October 9, 1952.)

29. Q. Where a candidate for office in a state or local election appears on a national network program, is an opposing candidate for the same office entitled to equal facilities over stations which carried the original program and serve the area in which the election campaign is occurring?

A. Yes. Under such circumstances an opposing candidate would be entitled to time on such stations. (Letter to Senator Monroney, dated October 9, 1952.)

30. Q. Where a candidate appears on a particular program—such as a regular series of forum programs, are opposing candidates entitled on demand to appear on the same program?

A. Not necessarily. The mechanics of the problem of "equal opportunities" must be left to resolution of the parties. And while factors such as the size of the potential audience because of the appearance of the first candidate on an established or popular program might very well be a matter for consideration by the parties, it cannot be said, in the abstract, that equal opportunities could only be provided by giving opposing parties time on the same program. (Letter to Harold Oliver, dated October 31, 1952; Letter to Julius F. Brauner, dated October 31, 1952.)

EXHIBIT NO 3.

THE ORGANIZATION AND PROCEDURES OF THE FEDERAL REGULATORY COMMISSIONS AND AGENCIES AND THEIR EFFECT ON SMALL BUSINESS

WEDNESDAY, MARCH 21, 1956

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 1 ON FEDERAL REGULATORY AGENCIES,
OF THE SELECT COMMITTEE TO CONDUCT A STUDY AND
INVESTIGATION OF THE PROBLEMS OF SMALL BUSINESS,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 9:30 a. m., in room 362, House Office Building, Washington, D. C., Hon. Joe L. Evins (chairman of the subcommittee) presiding.

Present: Representatives Evins (presiding), Multer, Yates, and McCulloch.

Also present: Everette MacIntyre, staff director and general counsel, George L. Arnold and Irving Maness, assistant counsel; Clarence D. Everett, staff member; Victor P. Dalmas, assistant to minority members.

Mr. EVINS. The committee will come to order.

This morning I should like to submit for the record a letter received from the Chairman of the Federal Communications Commission, Mr. George C. McConnaughey. It is in response to a press statement which I made with reference to this inquiry.

I am going to ask that both my statement and Mr. McConnaughey's letter be printed in the record together. There will be some further comment upon some of the statements made in this letter regarding the misunderstanding of perhaps the use of the word "networks."

If one wishes to amend that to use the word "industry," there would be no objection, or "those regulated."

(The letter and the press release referred to are as follows:)

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D. C., March 19, 1956.

Hon. JOE L. EVINS,
Chairman, Subcommittee No. 1, House Select Committee on Small Business, House of Represenatives, Washington, D. C.

MY DEAR CONGRESSMAN EVINS: On my return to my office this morning, I was astounded to read the press release that you had issued the afternoon of March 15, 1956, which suggests that in our conference the week previous I had indicated that networks had control over the staff of the Federal Communications Commission. Your press release states "these allegations by the FCC to the effect that the networks have the power to hire and fire those who do not vote or speak in the networks' interests are serious matters and demand an immediate and thorough investigation." In order to set the record straight, I have searched my recollection and consulted with the two members of my staff who were present. My staff's recollection and mine are quite clear that you never discussed or mentioned any matter relating to the networks' alleged control of FCC staff, nor did I.

As you will recall you stated that you had heard rumors about the power of the Chairman of this Commission, because of his ability to select, promote or remove staff people, to get opinions and recommendations from the staff so as to carry out his own personal policies. In response to this I pointed out that rather than being a powerful Chairman with respect to control over staff in this regard, I had extremely limited powers and that all personnel actions were subject to the control of the full Commission. It was only in this connection that I mentioned I was perhaps the weakest Chairman of any of the regulatory agencies with respect to my powers over personnel and the establishment of policy.

Neither I nor any of my staff can recall any statement by Mr. L'Heureux to the effect that if the names of staff "were known in instances where they had taken positions unfavorable to the networks, the networks would see to it that such staff personnel were fired." Mr. L'Heureux did point out that agencies were generally reluctant to release staff opinions or interoffice memorandums because, if such information were made public, it might invite a situation where staff personnel would give opinions with an eye to newspaper publicity and affected regulated industries might tend to place pressures upon personnel, either through recourse to members of Congress or otherwise.

In view of the fact that the subject press release mentioned all members of your subcommittee and since they were not present during our conference, I am forwarding a copy of this letter to both Representative Yates and Representative McCulloch.

Sincerely yours,

GEORGE C. MCCONNAUGHEY, *Chairman.*

(Mr. Evins comments on the contents of the above letter appear on page 751.)

STATEMENT OF HON. JOE L. EVINS, MEMBER OF CONGRESS FROM TENNESSEE

Representative Joe L. Evins (Democrat, Tennessee) today issued subpenas for records of RCA, NBC and CBS to investigate complaints that major networks are controlling policies of the Federal Communications Commission.

Mr. Evins, who is chairman of Subcommittee No. 1 of the House Select Committee on Small Business, of which Hon. Sidney R. Yates (Democrat, Illinois) and Hon. William M. McCulloch (Republican, Ohio) are members, said witnesses and records will be called before the committee at 9:30 a. m., March 20, when his subcommittee resumes investigation into the practices and independence of regulatory agencies.

Mr. Evins said the subpenas were issued on the basis of complaints made to the committee that the networks controlled FCC policies through intimidation of personnel in the Government agency. He pointed out that any control or degree of undue influence by the networks on the policies of FCC would appear to adversely affect small business and be contrary to the public policy and the law.

Recently, Representative Evins conferred with Mr. George C. McConnaughey, Chairman of the Federal Communications Commission, Mr. Robert L'Heureux, assistant to Mr. McConnaughey, and Mr. Warren E. Baker, General Counsel of the Federal Communications Commission, at which time those officials of the FCC lent their voices to information previously received by the House Small Business Committee relating to control over the staff of the FCC. In speaking of that conference Representative Evins said:

"During this conference Chairman McConnaughey informed the committee he was perhaps the 'weakest' chairman of any of the regulatory agencies with respect to his powers over personnel and the establishment of policy.

"He insisted that he did not have even the power to hire and fire. At the same conference Mr. L'Heureux indicated fear of reprisal from members of the industry which FCC is supposed to be regulating. Mr. L'Heureux stated the names of staff personnel who prepared specific memoranda should not be divulged because if their names were known in instances where they had taken positions unfavorable to the networks, the networks would see to it that such staff personnel were fired.

"These allegations by the FCC to the effect that the networks have the power to hire and fire those who do not vote or speak in the networks' interest are serious matters and demand an immediate and thorough investigation. Therefore, I have issued the subpenas as one of the steps in our resumption of hearings in this continuing investigation of regulatory agencies and in an effort to serve the interests of the public and small business."

Thank you very much.
Senator POTTER. Thank you. Are there any other questions of Mr. Cottone? We will hear from Mr. Burton and Mr. Craig at this time.

Mr. EVINS (continuing). The committee will call as its first witnesses this morning Mr. Thomas Garland Tinsley, Jr., of Baltimore, Md., and Mr. Irvin Abeloff, of Richmond, Va.

Mr. MCCULLOCH. Off the record, Mr. Chairman.

(Discussion off the record.)

Mr. EVINS. On the record.

With reference to my statement and Mr. McConnaughey's reply, I would add that this conference was held at the request of Mr. McConnaughey, and if he did not use the word "networks," certainly he used the words "interests regulated" and "industry regulated" which to my mind means the same thing.

During the course of our discussion, Mr. McConnaughey wanted to assure me that he was not a strong Chairman. I think his statement has indicated his admission of the use of the words "one of the weakest Chairmen" of any of the regulatory agencies.

He certainly discussed his lack of power of hiring and firing personnel at the FCC. It is clear to me this morning that the Chairman of the FCC has a clear recollection of that part of our discussion.

The Chairman seems not to recall clearly that part of our discussion dealing with the fear of reprisal against members of the staff of the FCC who speak out or take positions against the interests of the industries regulated.

While Mr. McConnaughey may perhaps have a lapse of memory in this respect, I have not. I clearly recall the discussion that dealt with this fear of reprisal.

Mr. L'Heureux stated that this fear of reprisal was one of the reasons why the FCC was reluctant to divulge to the members of this subcommittee the names of the staff members who had written memoranda or taken particular positions concerning contentions before the Commission.

Mr. McConnaughey, the chairman of the FCC, quickly concurred in the views expressed by Mr. L'Heureux in this regard.

My statement, Mr. McConnaughey's statement, and my comments will be printed in the record. (See pp. 727, 728, 751.)

Now, Mr. MacIntyre, you may proceed.

Mr. Tinsley, do you solemnly swear the testimony you are about to give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. TINSLEY. Yes, sir.

Mr. EVINS. And you are Mr. Abeloff?

Mr. ABELOFF. I am, sir.

Mr. EVINS. You are counsel?

Mr. ABELOFF. I am Mr. Abeloff.

Mr. PLOTKIN. And I am counsel.

Mr. EVINS. What is your name?

Mr. PLOTKIN. Mr. Plotkin.

Mr. EVINS. Mr. Plotkin and Mr. Abeloff.

VII. What limitations can be put on the use of facilities by a candidate?

31. Q. May a station delete material in a broadcast under section 315 because it believes the material contained therein is or may be libelous?

A. No. Any such action would entail censorship which is expressly prohibited by section 315 of the Communications Act. (Port Huron Bctg. Co., 4 R. R. 1; WDSU Bctg. Co., 7 R. R. 769.)

32. Q. If a legally qualified candidate does make libelous or slanderous remarks is the station liable therefor?

A. The Commission has expressed its opinion in Port Huron Bctg. Co., 4 R. R. 1., that licensees not directly participating in the libel might be absolved from any liability they might otherwise have under state law, because of the operation of Section 315 which precludes them from preventing its utterance. But this is a matter which in the absence of any amendment to the law will have to be definitively decided by the courts. So far there have been no clear judicial holdings on this matter, but only dicta or lower court opinions supporting both positions. It should be noted, however, that many states have passed laws which wholly or partially exempt licensees from liability under these circumstances.

33. Q. If a candidate secures time under section 315, must he talk about a subject directly related to his candidacy?

A. No. The candidate may use the time as he deems best. To deny a person time on the ground that he was not using it in furtherance of his candidacy would be an exercise of censorship prohibited by section 315 (WMCA, Inc., 7 R. R. 1132).

34. Q. If a station makes time available to an office holder who is also a legally qualified candidate for re-election and the office holder limits his talks to non-partisan and informative material, may other legally qualified candidates who obtain time be limited to the same subjects or the same type of broadcast?

A. No. Other qualified candidates may use the facilities as they deem best in their own interest. (Letter to Congressman Allen Oakley Hunter, May 28, 1952.)

35. Q. May a station require an advance script of a candidate's speech?

A. Yes, provided that the practice is uniformly applied to all candidates for the same office using the station's facilities, and the station does not undertake to censor the candidate's talk. (Letter of July 9, 1952, to H. A. Rosenberg, Louisville, Ky.)

36. Q. May a station have a practice of requiring a candidate to record his proposed broadcast at his own expense?

A. Yes. Provided again that the procedures adopted are applied without discrimination as between candidates for the same office and no censorship is attempted. (Letter of July 9, 1952, to H. A. Rosenberg, Louisville, Ky.)

VIII. What rates can be charged candidates for programs under section 315?

37. Q. May a station charge premium rates for political broadcasts?

A. No. Section 315, as amended, provides that the charges made for the use of a station by a candidate "shall not exceed the charges made for comparable use of such stations for other purposes."

38. Q. May a station with both "national" and "local" rates charge a candidate for local office its "national" rate?

A. No. Under §§ 3.190, 3.290 and 3.557 of the Commission's Rules a station may not charge a candidate more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that within which persons may vote for the particular office for which such person is a candidate.

39. Q. Is a political candidate entitled to receive discounts?

A. Yes. Under §§ 3.190, 3.290 and 3.557 of the Commission's Rules political candidates are entitled to the same discounts that would be accorded persons other than candidates for public office under the conditions specified, as well as to such special discounts for programs coming within section 315 as the station may choose to give on a non-discriminatory basis.

40. Q. If candidate A purchases ten time segments over a station which offers a discount rate for purchase of that amount of time, is candidate B entitled to the discount rate if he purchases less time than the minimum to which discounts are applicable?

A. No. A station is under such circumstances only required to make available the discount privileges to each legally qualified candidate on the same basis.

41. Q. If a station has a "spot" rate of two dollars per "spot" announcement, with a rate reduction to one dollar if 100 or more such "spots" are purchased on a bulk time sales contract, and if one candidate arranges with an advertiser having such a bulk time contract to utilize five of these spots at the one dollar rate, is the station obligated to sell the candidates of other parties for the same office time at the same one dollar rate?

A. Yes. Other legally qualified candidates are entitled to take advantage of the same reduced rate. (Letter to Senator Monroney, dated October 16, 1952.)

42. Q. Where a group of candidates for different offices pool their resources to purchase a block of time at a discount, and an individual candidate opposing one of the group seeks time on the station, to what rate is he entitled?

A. He is entitled to be charged the same rate as his opponent, since the provisions of section 315 run to the candidates themselves and they are entitled to be treated equally with their individual opponents. (Report and Order, Docket 11092.)

EXHIBIT NO. 4.

KERO–TV, as the CBS television network affiliate in Bakersfield. I now find that this map was somewhat premature. The fact is that we were at the time of my testimony contemplating affiliating with KBAK–TV, the UHF station, since it fitted in very well with KFRE–TV, minimizing overlap. Subsequently, the CBS television network has made the formal determination to seek a primary affiliation with KBAK–TV.

In any event, I should note that the substance of my answer to you—that our affiliation with KFRE–TV "improves the service of the network"—remains true.

Station KERO–TV in Bakersfield is a VHF station which is a primary affiliate of the NBC television network and only a secondary affiliate of the CBS television network. While KERO–TV carries 8 hours per week of nighttime CBS television network programing and 14¾ hours of daytime, there are an additional 8 hours nighttime commercial programs per week and 7 daytime ordered by CBS television network advertisers for KERO–TV, which that station is not clearing.

Because KERO–TV is a primary affiliate of the NBC television network, the question of overlap of its coverage area by KFRE–TV's coverage area did not play a critical part in the determination to affiliate with KFRE–TV. The CBS television network does not normally take into account the question of overlap with stations which carry some of the network's programs but which are primary affiliates of another network.

Further, as our files relating to KFRE–TV, which you have examined, indicate, it was the opinion of both the research department and the engineering department of the CBS television network that KFRE–TV would considerably strengthen our coverage in the area. You will recall that in his testimony while I was on the stand, Mr. Lodge pointed out that measurement by whole counties minimizes the effect of the gain achieved by shifting to KFRE–TV. The research department estimated that KFRE–TV gives us coverage of an additional 77,100 families not covered by KJEO–TV. It was also the opinion of the research and engineering departments that there would be improved service rendered by KFRE–TV within KJEO–TV's accredited area—even within Fresno itself.

In summary, our decision to affiliate with KFRE–TV was based on our judgment that there would be improved service to more people without significantly increasing the problem of overlap with any existing primary CBS television network affiliate.

I trust that this clarifies the record.

With all good wishes.

Sincerely yours,

FRANK STANTON, *President.*

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4. LETTER DATED JUNE 22, 1956, FROM DR. STANTON [INSERTED IN THE RECORD ON JULY 17, 1956], COMMENTING ON PENDING LEGISLATION RELATIVE TO POLITICAL BROADCASTING

COLUMBIA BROADCASTING SYSTEM, INC.,
New York, N. Y., June 22, 1956.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

MY DEAR SENATOR MAGNUSON: In the course of my testimony before the Senate Committee on Interstate and Foreign Commerce on June 12, 1956, you referred (transcript p. 3324) to "this very timely and ticklish problem of political time" and you also referred to a number of bills on the subject. You requested that I submit our views in writing. I am glad to do so.

The bills are as follows: S. 771, S. 1208, S. 1909, S. 2306, S 3308, and S. 3962. The latter three deal with the perplexing problem of equal time. Before turning to those three bills, I would like to discuss the first three bills which deal with more limited subjects.

1. S. 771: This bill proposes to withdraw the equal-time rights of section 315 (a) of the Communications Act of 1934 from any individual who has been convicted of subversive activities and from members of certain subversive organizations.

While CBS has no objections to the principle embodied in this bill, I call to your attention that the bill apparently places a difficult and heavy burden on the broadcaster since it seems to require him to determine in each case whether anyone claiming rights under section 315 has been convicted of subversion or, even more difficult of ascertainment, whether he is a member of certain sub-

least 4 percent of the vote in the preceding presidential election, or (*b*) if their candidacy is supported by petitions numbering at least 1 percent of that vote.

Thus S. 3308 takes one very useful step forward: it relieves the broadcaster of the requirement that equal time be granted to presidential and vice presidential candidates of fringe parties.

CBS believes, however, that there are serious omissions in title III of S. 3308. It provides no relief in the case of candidates for the nomination for the Presidency, nor does it provide relief in cases of campaigns at any level other than the Presidency or Vice Presidency.

It is obscure candidates for the presidential nomination, even of major parties, who have given broadcasters some of their gravest difficulties. Some of the actual experiences on this score are set out on pages 5 to 8 of Mr. Salant's testimony attached as exhibit A. The short of it is that anybody who wants the presidential nomination of the Democratic or Republican parties today has equal right to President Eisenhower, if the Republican nomination is desired, or to Governors Stevenson and Harriman or Senator Kefauver, if the applicant claims he wants the Democratic nomination. There is no limit to the potential candidates. It seems to me in the circumstances that relief in respect of candidates for nomination is imperative.

I also point out that S. 3308 does not have the same limitations as S. 2306; the former applies even to set campaign speeches and political rallies. On the whole, we believe it more desirable to limit exemptions as to the types of programs specified in S. 2306. If equal-time requirements are to be preserved at all, it is more desirable that when time is given free to candidates to use however they please, the equal-time requirements should apply to all competing candidates for the same office.

6. S. 3962: This bill proposes a comprehensive amendment to section 315. It embodies some important steps forward; but it also embodies one extremely disturbing proposal.

It would leave section 315 precisely as it is now but would add several new subsections, as follows:

Subsection (b) (1) of the bill deals only with nominees for President and Vice President and is substantially identical to title III of S. 3308. In effect, it applies the equal-time requirements only to presidential and vice presidential candidates nominated by major parties.

Subsection (b) (2), however, is in addition to what appears in title III of S. 3308 and represents an important improvement. It expressly applies to candidates for presidential and vice presidential nomination. First, it imposes equal-time requirements on candidates for such nomination only if the nomination is by a major political party. Second, subsection (b) (2) provides that the candidate for such nomination by a major political party is not entitled to the benefits of the equal-time requirements unless he (*a*) is the incumbent of any elective Federal or statewide elective office, or (*b*) has been nominated for President or Vice President at any prior convention of his party, or (*c*) is supported by petitions including at least 200,000 valid signatures.

Thus, subsection (b) (2) of S. 3962 would cure the defect I have noted above in connection with title III of S. 3308, since it would relieve broadcasters of the requirement of giving equal time to unknown or unsubstantial candidates for the Democratic or Republican presidential nomination.

I should note some reservations concerning subsection (b) (2). It appears to me that the definitions of eligibility are somewhat inflexible. Had these provisions been in effect in prior campaign years, we would have had to demand petitions with 200,000 signatures before General Eisenhower, Wendell Willkie, Herbert Hoover (in 1928), or John W. Davis could have qualified for a broadcast appearance as a candidate for presidential nomination of their respective parties, for none was an incumbent of any elective Federal or statewide elective office, and none had been nominated for President at any prior convention.

We think it more desirable to avoid embarrassing problems such as this by allowing the broadcaster some limited discretion in determining who is and who is not a substantial candidate for nomination of a major party. This could be done in terms of defining who could be presumed to be a substantial candidate, by using the three tests specified in subsection (b) (2) of S. 3962, but allowing broadcasters to go beyond that so as to take care of such situations as presented by Mr. Hoover in 1928, Mr. Willkie, General Eisenhower, and Mr. Davis.

The new subsection (c) of S. 3962 also embodies an important advance beyond title III of S 3308. In contrast to S. 3308, subsection (c) of S. 3962 would

central issues of the campaign. We have already tentatively set aside class A nighttime periods during next fall for that purpose. I hope that legislation will be enacted which permits us to make that use of those time periods.

Sincerely yours,

FRANK STANTON,
President, Columbia Broadcasting System, Inc.

EXHIBIT A

STATEMENT OF RICHARD S. SALANT, VICE PRESIDENT, COLUMBIA BROADCASTING SYSTEM, INC., BEFORE THE SUBCOMMITTEE ON TRANSPORTATION AND COMMUNICATIONS OF THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. Chairman and members of the subcommittee; my name is Richard S. Salant. I am vice president of Columbia Broadcasting System, Inc. I am appearing today to record the Columbia Broadcasting System's support of H. R. 6810, which the chairman of this subcommittee has introduced at our request.

H. R. 6810 proposes to amend, in a manner which I shall specify in a moment, section 315 (a) of the Communications Act. Section 315 (a) provides that if a broadcasting station permits a "legally qualified candidate for any public office" to use that station, it shall afford equal opportunities to all other legally qualified candidates for the same office. Section 315 (a), it should be noted, does not require any station to make time available to any candidate; it provides only that if a station does make time available to a candidate, either on a free or on a paid basis, it must do the same, on the same basis, for all other candidates for the same office.

The only change in section 315 (a) which is proposed by H.R. 6810 is that its provisions be made inapplicable to "any news, news interview, news documentary, panel discussion, debate, or similar type program where the format and production of the program and the participants therein are determined by the broadcasting station, or by the network in the case of a network program * * * "

In other words, as far as set campaign speeches or political rallies are concerned, section 315 (a) remains just as it is, with no change. Then if a station or network makes its facilities available free for a speech by one party's candidate for office, it must do exactly the same for every other party's candidate for that office. But if, instead of a set appearance controlled by the candidate, the use of facilities is essentially in connection with the station's or network's exercise of its news-coverage function, produced under its own supervision and control and not the candidate's, then the broadcaster may exercise some discretion and, depending on the circumstances, need not necessarily do exactly the same for every other candidate for the same office.

Note that H.R. 6810 will not permit, and is not intended to permit, favoritism in granting free or paid time among candidates. Rather, its only purpose is to permit broadcasters, in the exercise of their news and journalistic functions, greater opportunity to inform the American public.

The fact is—and I believe that this is almost universally conceded—that while section 315 (a) is rooted in the soundest principles of fair play, it nevertheless has an inherent and fatal weakness. Put bluntly, section 315 (a) stifles and suppresses public information and knowledge; its consequence is to inhibit radio and television from fulfilling to the fullest potential their roles of informing the electorate. H.R. 6810 is designed only to reach these defects by providing an effective remedy while at the same time preserving the basic principles which we believe the Congress sought to achieve in enacting section 315 (a).

Over the years of operation under section 315 (a), we at CBS have become increasingly concerned with, and increasingly aware of, its suppressive effects. Broadcasting, and particularly in recent years television broadcasting, has come to play an increasingly important role in keeping the American people informed of the facts and issues which the people themselves ultimately determine in the voting booth. For in recent years there has unquestionably grown up a new and vital form of journalism—electronic journalism. More and more, the American people have turned to television for firsthand knowledge of the candidates—of what the candidates say and how the candidates look when they say what they have to say.

Thus, television has provided an unprecedented opportunity to the American people—an opportunity which has never before been available to them on so vast and immediate a scale. The people can see and hear the candidates directly; they can make up their own minds on the basis of firsthand direct information and impression.

There can, we believe, be no quarrel with the general proposition, therefore, that television and radio have given a new vitality to American democratic processes. They have permitted a more direct participation by American citizens in our democratic processes to a greater extent than has ever been possible before.

In 1858 the most famous series of American political debates took place between Abraham Lincoln and Stephen Douglas, Republican and Democratic candidates for the Senate from Illinois. Only some 75,000 people saw and heard Lincoln and Douglas engage in these historical debates. Today, television could make it possible for some 115 million people simultaneously to see and hear the presidential candidates debate; radio makes it possible for some 140 million people simultaneously to hear these debates.

But the fact which concerns us so deeply, and which led to our proposing H. R. 6810, is that if such debates could be arranged between the Republican and Democratic candidates next fall, section 315 (a) would, as a practical matter, bar us from broadcasting them. It is this sort of public disservice which H. R. 6810 would remedy. For fair as section 315 (a) may seem on its face, its practical result is to drop an iron curtain between voters and candidates.

This is so because whatever the voter may think and whatever may be the practical political fact, for broadcasters there is no such thing as a two-party system. For example, in 1952 there were 18 parties with presidential candidates who qualified in one or more States. As a consequence, if we could have arranged debates between General Eisenhower and Governor Stevenson in 1952, we would have been required to give the same amount of time to each of the other 16 parties with presidential candidates.

We cannot believe that any law which makes impossible so extremely dramatic and useful a method of informing the public and of contributing to the vitality of our democratic processes should remain on the books.

Preventing such debates is only one of the unfortunate consequences of section 315 (a). Section 315 (a) also tends to dilute broadcasters' efforts most effectively to present significant campaign issues. It tends to reduce broadcasters to third-class membership in the free press by precluding the electronic journalists from exercising the kind of news judgment which all other members of the press are constitutionally guaranteed. Let me illustrate how section 315 (a) has had these undesirable results of precluding broadcasters from achieving the full potentiality of their roles in electronic journalism, and thus depriving the public from all the information to which it is entitled.

For purposes of section 315 (a), a candidate for a public office is defined as any person who has publicly announced that he is a candidate for nomination or election and who meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate. It is enough that the candidate be eligible o be voted for by a writein—and a number of States permit writein candidates. Whether his campaign is merely for nomination or is for election, he need only be a bona fide candidate—which has been interpreted by the FCC to mean not that there need be the remotest chance that he be nominated or elected, but only that the candidate would, if nominated, accept the nomination or would, if elected, accept the office.

In 1952, we learned the hard way of the sweep of these provisions. There was a gentleman named William R. Schneider, a Missouri citizen. Prior to the period of presidential nominations in 1952, Mr. Schneider had made a number of requests to CBS to grant him time to expound his views on the air. He insisted that both Senator Taft and General Eisenhower were leftwing and only he represented true republicanism. We felt that there was not sufficient public interest in his views and that he was not sufficiently well known to warrant giving him time.

But Mr. Schneider learned what more and more persistent and perspicacious students of section 315 (a) are beginning to learn. He qualified himself under section 315 (a) simply by announcing that he was a candidate for the Republican nomination for President of the United States. He filed in the New Hampshire and Oregon primaries and thus in the opinion of the FCC qualified as a candidate for the Republican presidential nomination. After he announced his candidacy, and filed in these two primaries, he renewed his demand for time on CBS facili-

ties, this time making his claim under section 315 (a). He pointed out that on a number of program series which we had carried preceding the conventions and dealing with the candidates for the Republican and Democratic presidential nominations we had broadcast interviews of Senator Taft, of spokesmen for General Eisenhower, and of other candidates for the Republican nomination. Mr. Schneider claimed as a result that section 315 (a) required us to give him equal opportunities on the CBS radio and television networks.

Mr. Schneider took us to court and to the Federal Communications Commission. The Commission ruled that Mr. Schneider was right and that he was entitled to the protection of section 315 (a). And so Mr. Schneider joined the ranks of General Eisenhower and Senator Taft and had himself two network half hours free.

As a footnote to this painful lesson which we learned, I may add that Mr. Schneider got only 230 votes in the New Hampshire primaries; we never did find out how many votes he got in Oregon. But we did discover that Mr. Schneider who, under section 315 (a), was thus held to be a qualified candidate for the Republican nomination was not, in the mind of the Republican Party, even qualified to be admitted to the Republican convention. He was unable to get a ticket to get into the convention hall.

The implications of our little adventure with Mr. Schneider are obvious and, as we look toward 1956, frightening. You can readily appreciate why in 1956 we are going to have to think twice before we provide as comprehensive coverage to candidates for the nominations as we did in 1952. For there is hardly any practical limit to the number of people who could do what Mr. Schneider did. All they have to be is 35 years old, American citizens, and willing to accept the nomination if it is tendered to them. A chance to appear before millions of people with no cost at all to themselves might well prove an enormous temptation to a great many soapbox orators and publicity seekers. As time goes on and Mr. Schneider's triumph becomes recognized, it is inevitable that we will have to cut down on our preconvention political coverage. One needs only a couple of dozen Mr. Schneiders for the air to be filled with little else. We will have to be very careful about presenting on our news panel, interview, and public-affairs programs well-known candidates for the nomination, because we know that by doing so we will place ourselves under the obligation under section 315 (a) to put a potentially unlimited number of people, in whom the public has no interest at all, on the air.

And the problem is the same even after the nominations are in. Although here the numbers of potential candidates get reduced from the hundreds of thousands or millions to the dozens, the number is still too large to be workable. For it is after the nominations are in that we find that the broadcaster cannot accept what all political commentators and historians accept—that ours is essentially a two-party system. Again, let us look at the 1952 record.

How many of you have ever heard of Homer A. Tomlinson, Fred C. Proehl, Don Du Mont, Edward Longstreet Bodin, or Ellen Linea W. Jensen? Each of these was a duly nominated candidate for President in 1952. They were the candidates of the 18 political parties which presented presidential nominees in the last campaign. There were presidential candidates presented not only by the Republican and Democratic Parties, but there were also presidential candidates of the American Party, the American Rally, the Christian Nationalist Party, Church of God Bible, Constitution Party, Greenback Party, Poor Man's Party, Progressive Party, Prohibition Party, Republimerican Party, Socialist Labor Party, Socialist Party, Socialist Workers Party, Spiritual Party, Vegetarian Party and Washington Peace Party.

No matter how obscure some of these parties may be, section 315 (a) allows us to make no distinction among them. We cannot, therefore, consider allowing the Republican and Democratic presidential candidates to appear on a press interview, forum, or panel program or a debate without taking into account the fact that under the law we would be required to do the same for the other 16 parties.

As a result, with a list of parties as formidable in numbers and as obscure in national interest as this list, we have in general been forced as a matter of simple common sense, in the interests of our own self-preservation, as well as the protection of our listeners, to adopt restrictive policies during campaign periods.

The problem is not limited to candidates for presidential nominations or elections. Let me give some further illustrations of our 1952 experiences where we found section 315 (a) limited us in serving the obvious public interest in clarifying and sharpening national issues.

Furthermore, in his concern for adjacency scheduling of religious programs, Dr. Stanton ignores the fact that the religious program with the largest audience, that of Bishop Fulton J. Sheen, is broadcast in class A time and surrounded and opposed by supposedly first-class entertainment programs.

Religious programs can reach the majority audience that desires them only if the networks schedule them when that audience is available. Network programs stand or fall on the basis of audience. Audience ratings are almost the sole criterion of success. Therefore, it is significant that neither Dr. Stanton nor Mr. Sarnoff in their claims about the adequacy of religious programs on their networks ever once mention the audience for these programs.

The issue between the public and the networks on the network handling of public-service broadcasting does not turn on how much money the network spends per program (although the published figures for religious programs listed in the briefs are pitifully small in relation to budgets for commercial programs); nor on program planning and participation; nor on awards and mentions in the trade press. It hinges on adequacy of presentation and on presentation of programs at a time when the chosen audience is available. It is the obligation of the network to produce—and pay for—a good program that draws a demonstrable audience. If it fails in that, then the network has failed in its public responsibility. I am applying here only the yardstick of measurement by audience that the networks have willingly and eagerly accepted as the basis for judging the success of their commercial programs.

In the case of religion, no network has demonstrated by means of audience figures that it is providing an adequate broadcast service.

It seems apparent from the statements of Messrs. Stanton and Sarnoff that religious broadcasters, and all others in the public-service field, cannot expect to receive treatment from the networks commensurate with the importance of their presentations in the public view. Complacency and indifference are the keynotes of these statements from the network policymakers. It is understandable from them why the public comes to your committee for aid.

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10. Letter Dated August 2, 1956, From Mr. Ervin, Commenting on Pending Legislation on Political Broadcasting

National Broadcasting Co., Inc.,
New York, N. Y., August 2, 1956.

Hon. Warren G. Magnuson,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

Dear Senator Magnuson: During the course of the hearings relating to television before the Committee on Interstate and Foreign Commerce last month, you requested that the networks submit written statements with respect to the bills under consideraion by the committee concerning political broadcasts. We appreciate this opportunity and I am pleased to present the views of the National Broadcasting Co.

My understanding is that at this time there are seven such bills: S. 771, S. 1208, S. 1909, S. 2306, S. 3308, S. 3962, and S. 4250 before the committee which are designed in some manner to amend section 315 of the Communications Act. This section deals with the subject of broadcast facilities for candidates for public office. Most of the bills have as their principal purpose a more workable, realistic and equitable law. We are fully in accord with this objective and we commend you and the committee for undertaking this worthwhile task.

For the purpose of convenience I shall discuss the bills in the order in which they were introduced in the Senate. This, of course, does not in any way constitute an evaluation of their relative importance.

S. 771

The present law requires a broadcaster to afford equal opportunity to all legally qualified candidates.

S. 771 would exclude from the equal opportunity privilege an individual who is a legally qualified candidate but who has been convicted under the United States Criminal Code of espionage, sabotage, treason, sedition, or other subversive activities. It would also exclude a person who is a member of any organization proscribed by section 3 of the Communist Control Act of 1954 or any organization registered under the Subversive Activities Control Act of 1950 as a Com-

S. 1090

This bill would require an announcement in any political television broadcast as to whether the candidate or his spokeman is speaking extemporaneously or from prepared material and what facial makeup, if any, is being used.

Although this bill is of minor significance, NBC opposes it because it is discriminatory. It imposes requirements upon one medium of expression—television—which are not imposed on any other medium.

S.2306

Section 315 (a) of the Communications Act now provides that if a broadcast licensee permits "a legally qualified candidate" for a public office to use the facilities of his station, the broadcaster must afford equal opportunity to use the station to all other legally qualified candidates for the same office. The present act does not compel any station to make time available to political candidates. However, if under any circumstances a single candidate is afforded time, a chain reaction commences whereby the broadcaster must furnish equal opportunity to all qualified candidates for the same office.

S. 2306 provides a limited exception to the all-encompassing scope of the present section 315 (a). It is made inapplicable to:

"* * * any news, news interview, news documentary, panel discussion, debate, or similar type program where the format and production of the program and the participants therein are determined by the broadcasting station, or by the network in the case of a network program."

A weighing of all considerations leads us to conclude that on balance the bill is sound in principle. It recognizes that we live in an era of electronic journalism and that the literal application of the equal time provision tends to defeat itself. It also would remove to a degree an existing discrimination. In no other field of programing is the broadcaster so mistrusted that there is a statutory imposition of equal time for all contenders. We believe that the handling of controversial issues by the broadcasting industry has shown that on the whole broadcasters are a responsible group capable of performing their function fairly.

In order to encourage this type of programing and in the interest of affording full play to freedom of expression by candidates, it is also recommended that S. 1208—which exempts broadcasters from liability for defamation—be made applicable to the type of programs covered by S. 2306 as well as those which are strictly within the purview of section 315.

S. 3308

This is an omnibus bill to amend the Federal elections laws. Only title III is concerned with the matter of political broadcasts.

Title III proposes a limited amendment to section 315. The proposal is to require a broadcaster to afford equal facilities to all legally qualified candidates for President and Vice President of the United States only (i) if they are the nominees of a political party whose presidential candidate polled at least 4 percent of the vote in the preceding election, or (ii) if their candidacy is supported by petitions filed under State laws which in the aggregate have a number of signatures equal to 1 percent or more of the total popular votes cast in the preceding election.

This is constructive legislation and NBC favors it. One of the most unworkable aspects of the present law is the application of absolute equality among all political candidates—even those fringe groups which have little popular support. For example, there were over 15 parties supporting presidential candidates in the 1952 election—and the total aggregate vote for all of these parties amounted to far less than 4 percent of the total popular vote. This large number of aspirants makes it extremely hazardous, if not impossible, for the broadcaster to offer major candidates television exposure.

This bill, however, would remedy this situation in large measure during the election period by limiting the equal facilities privilege to those candidates who have substantial support.

It is recommended that the bill be revised to afford some protection with respect to candidates for nomination as well as candidates for election. The period before nomination is a particularly troublesome one because nearly anyone may claim to be a contender for his party's nomination for high office. A dozen or more self-proclaimed candidates could do 1 of 2 things: (1) They could seriously interfere with a national program service; or (2) their very existence could result in no television coverage of the nomination contest. Either consequence is undesirable and remedial legislation seems to be required.

EXHIBIT NO. 5.

(Telegram Received by Telephone)
(Confirmation Copy to Be Mailed)

Date—CC Apr 17 157A; Check—68 NL PD 5 Extra Pghs; Tel. No.—PU 5-0325; Dest'n.—NYK; Signature—Lar Daly, Republican Candidate for President, 12022 South Halsted, Apr. 18; Sub.—Cfn Furnished X.

COPY

Robt Sarnoff, Pres.
NBC 33 Rockefeller Center

As avowed certified actively campaigning candidate I demand immediate free equal time to reply Eisenhower, my opponent Republican presidential nomination, address April 16th your network.

Suggest Chicago, Indianapolis or other suitable Indiana city origin my reply so as not interfere my Indiana campaign where every hour valuable.

Request immediate compliance. Any delay seriously harmful my campaign and places me at greatly unfair disadvantage.

Mail CY 12022 South Halsted MR D

Note—Same telegram sent same date to Presidents of other 3 Television and Radio networks. . . .L.D.

This same letter sent Certified Mail, Return Receipt Requested, Air-Mail, to the Presidents of all 4 networks, National Broadcasting Co., Columbia Broadcasting System, American Broadcasting Co., and Mutual Broadcasting System.

Reply to—
844 Vermont St., Chicago 43, Ill.
August 4, 1956

Harry Trenner, President
Mutual Broadcasting System
1440 Broadway
New York, N.Y.

Mr. Trenner:

Dwight D. Eisenhower, a candidate for the 1956 Republican Presidential nomination, was accorded the free use of your network's facilities, on Friday, August 3, 1956, on the occasion of the address to the country of John Foster Dulles, Secretary of State.

I also am a bonafide and actively campaigning candidate for the 1956 Republican Presidential nomination, and have been legally certified as such by the only competent and duly constituted authorities authorized to decide the fact under the laws of the 48 states, viz., the State Election or Electoral Boards, or the Secretaries of State of the 48 states of this Union.

Such sole and competent authorities of the states of Illinois, Indiana and Montana, have so certified me to their various County and Circuit Clerks as a legally qualified candidate for the Republican nomination for President of the United States. Responsible officials of your network are aware of that fact.

As an American citizen, exercising my constitutional rights as guaranteed by Section 315 of the Federal Communications Act of 1934, as amended, I formally request of your network free and equal time for use of your network's facilities to reply to Dwight D. Eisenhower, my only announced and also legally qualified candidate for the 1956 Republican Presidential nomination. I make this

additional request the same as I previously requested free and equal time as that accorded Dwight D. Eisenhower on Feb. 29, April 16, and April 21, 1956.

.....

LAR DALY
Republican candidate for President

EXHIBIT NO. 6.

(Letterhead of)

STATE OF MONTANA
DEPARTMENT OF SECRETARY OF STATE
HELENA

April 25, 1956

S. C. Arnold
Secretary of State

Clifford L. Walker
Chief Deputy.
James M. Teakles
Deputy

Lar Daly
12022 South Halsted St.
Chicago 28, Illinois

Dear Sir:

Please be advised I have this day filed in my office your affidavit of candidacy for President of the United States. Your name will be certified for the ballot at the proper time.

I enclose herewith copies of the 1952 and 1954 primary returns also send you under separate cover copy of 1956 Election Laws.

Very truly yours,
/s/ S. C. Arnold
Secretary of State

p
enc.

EXHIBIT NO. 7.

(Letterhead of)

Republicans! 1956

LAR DALY for President
TOM DEWEY for Vice-President

AMERICA FIRST REPUBLICAN COMMITTEE
P. O. Box 733 — Chicago 90, Illinois
Phone WAbash 2-5820

July 28, 1956

President Dwight D. Eisenhower
White House
Washington, D.C.

Mr. President:

I am a legally qualified candidate for the 1956 Republican Presidential nomination, and have been actively campaigning for the nomination since August, 1955. I had the enclosed literature printed for mailing to all of the Delegates and Alternates to the 1956 Republican National Convention. Naturally, it is extremely important to my campaign that they receive it at their home or office addresses before they go to San Francisco.

I have written the Chairman of the Republican National Committee for the names of the Delegates and Alternates, but have received no reply. The newspaper wire services can't help me. Time is getting very short.

I have also written Mr. Ted Dalton, Republican Convention Housing Chairman, at the Mark Hopkins Hotel in San Francisco, for one or two rooms in the Mark Hopkins for my Convention Campaign headquarters. I have received no reply from Mr. Dalton.

You, Mr. President, are the only other announced Republican candidate for President. As one fellow-candidate to another, will you use your influence with the proper Republican officials to get me the Delegates and Alternates names and addresses, and also, at least one room in the Mark Hopkins hotel for my headquarters?

Thank you for any help you may give me, and assuring you of my continued good wishes for your health and happiness, and that of your family, I remain,

Sincerely,

.....

LAR DALY
844 West Vermont St.
Chicago 43, Illinois

THE WHITE HOUSE

Washington

August 8, 1956

Dear Mr. Daly:

The President has asked me to thank you for your good wishes, and to observe that the matters you raised in your letter are exclusively the concern of the Republican National Committee—not the White House.

We can only suggest that you repeat your request to Mr. Hall. We shall be glad, however, to send him a copy of this correspondence.

With all good wishes.

Sincerely,
/s/ Howard Pyle
Howard Pyle
Deputy Assistant
to the President

Mr. Lar Daly
844 Vermont Street
Chicago 43, Illinois

(Letterhead of)

1856 - Centennial - 1956

COMMITTEE ON ARRANGEMENTS
1956 REPUBLICAN NATIONAL CONVENTION
Fairmont Hotel, San Francisco 8, Calif.
Phone NAtional 7-1242

(Rec'd. 8-6-56 (Air Mail))

Mark Hopkins Hotel
San Francisco
August 3, 1956

Mr. Lar Daly
844 Vermont Street
Chicago 43, Illinois

Dear Fellow Republican:

For the 1956 Republican National Convention to be held in San Francisco August 20-24, we have made to you the following room assignment:

1 - Double Bedroom - Shaw Hotel

Enclosed is an application form which you will please execute and return 4 copies to us (you retain the green copy) with check for deposit made payable to the hotel, whereupon we will have it approved by the hotel and return a copy to you.

We are happy that you are coming to our Centennial Convention. We are sure that you will enjoy this opportunity of participating in what Chairman Leonard Hall describes "will be the greatest convention in the history of the GOP", and in paying a deserved tribute to our great President, Dwight D. Eisenhower.

Respectfully,
Subcommittee on Housing
Republican National Convention
/s/ Ted Dalton
By: Ted Dalton, Chairman

Date: August 8, 1956

COMMITTEE ON HOUSING
1956 REPUBLICAN CONVENTION
SAN FRANCISCO, CALIFORNIA

Dear Sir:

Please reserve the following accommodations for me as Convention Headquarters for actively campaigning candidate for 1956 Republican Presidential nomination to the 1956 Republican National Convention to be held in San Francisco, August 20 to 24:

Double bedrooms (number) 1

I will be accompanied by Raymond Kahoun, Jr., Sec'y. America First Repub. Comm. and plan to arrive by American Airlines on August 19, at 5:00 SF time and plan to depart on August 23, at 11:00 SF time by American Airlines.

I enclose deposit of $50.00 per room, payable to Shaw Hotel providing my accommodations, to guarantee accommodations for four days.

Lar Daly (Lar Daly)
844 Vermont St.
Chicago 43, Ill.
PUllman 5-2033 (Residence)
PUllman 5-0325 (Office)

(Letterhead of)

1856 - Centennial - 1956

COMMITTEE ON ARRANGEMENTS
1956 REPUBLICAN NATIONAL CONVENTION
Fairmont Hotel, San Francisco 8, Calif.

Phone NAtional 7-1242

Mark Hopkins Hotel
San Francisco
August 10, 1956

Mr. Lar Daly
America First Republican Committee
844 Vermont Street
Chicago, 43, Illinois

Dear Mr. Candidate:

We are processing your application at the Shaw Hotel. It is well located and we think that you will be just as happy there.

Since the Committee of which I am Chairman only deals with providing housing for those attending the convention, I have nothing to do with the handling of tickets. Such application should be addressed to the Arrangements Committee at the Fairmont Hotel, San Francisco, Calif.

I do not have a list of the delegates and alternates, but I am sending you a list of the various state delegation headquarters hotels. However, a directory is being made up by Western Union, the telephone company and Look and Time. You will be able to acquire a copy from one of these companies, and it should be helpful to you in your campaign.

All good wishes!

Sincerely,
/s/ Ted Dalton
Ted Dalton

TD/fe
cc: Mr. Ray Crummey, Shaw Hotel, McAllister & Market St., San Francisco

EXHIBIT NO. 8.

(Chicago Sun-Times—Wednesday, January 25, 1956)

JOHN DREISKE

—Prestige In Primaries

LAR DALY IS AT IT AGAIN. The man who once filed Gen. Douglas MacArthur's name at Springfield for the presidential preferential primary with only one name, Daly's on the petition, has now filed both MacArthur's name and that of William E. Jenner. *If both are withdrawn, Daly says, Daly's own petitions for the Republican presidential primary in Illinois will remain in* "because the cause of 'America First' in politics must be officially represented on the primary ballot April 10."

(Springfield, Illinois State Register—January 17, 1956)

620 Candidates
MacArthur's Name In Primary;
Heavy Filing Marks First Day

Illinois State Register Capitol
Bureau.

A tally today showed 620 candidates entered in Illinois primary races including President Eisenhower and Gen. Douglas MacArthur in the Republican presidential primary.

However, MacArthur is expected to ask that his name be withdrawn as he did four years ago. Lar Daly, of Chicago, a perennial candidate himself, filed MacArthur's name as he did in 1952 and said he would replace him with U. S. Sen. William E. Jenner, of Indiana, if the general withdraws.

If Jenner also declines, Daly said he would run for President himself. Should either MacArthur or Jenner stay in the race, Daly plans to file for the Republican governor nomination.

(Copy of Letter sent to General Douglas MacArthur by Lar (America First) Daly, on January 10, 1956, from Chicago.)

General Douglas MacArthur
Remington Rand, Inc.
Rowayton, Conn.

General:

Since 1936 I have boosted you for President of the United States. If ever the country needed a man of your calibre to lead it the time is now. Due to the vicissitudes of politics, we of the America First Republican faction believe that 1956 presents the best opportunity yet to secure the Republican nomination for President for you.

From the enclosed material you will see that this undertaking is nationwide in scope. I ask you to read Page 2 of my Platform for Governor of Illinois. It explains in detail just what is meant by the words "America First in Politics." The political petitions enclosed are now in circulation throughout Illinois.

We consider United States Senator William E. Jenner of Indiana to be the "other" MacArthur. He thinks, talks and acts like you for America's best interests first, better

than any other living Republican politician. We are promoting him with you for the Presidency in the event that you are absolutely unavailable for the Republican nomination. I personally, as the founder and National Director of this effort, refuse to believe that "Mr. American" would not answer the call of the Americans in America if they unmistakably showed they wanted you.

We are *not* asking you to declare yourself a candidate for the Republican nomination for President of the United States. All we ask is that you place yourself in the category of other possible candidates, such as Governor Harriman of New York, Governor Lausche of Ohio, and Governor Herter of Massachusetts, among others, and give the impression to the American people that you will accept the Republican nomination if it comes your way.

This means doing nothing to *further or hinder* our political efforts in your behalf. I will personally file your name in Illinois. We request that you do *not* write the Illinois Secretary of State to have your name removed, as he will probably inform you is your privilege. The right of the people to express their choice for President is paramount to all others.

Sincerely,
LAR (America First) DALY
12022 South Halsted St.
Chicago 43, Ill.

(Chicago Daily News—Tuesday Jan. 24, '56)

Primary Lineup
Still Changing
For State GOP

Jenner Expected to Drop Out,
But Knowland Stays In

By George Thiem
Of Our Springfield Bureau

Springfield, Ill. — Additional withdrawals are expected to change the lineup on the April 10 Illinois primary ballot.

But as of Tuesday, four Republican and one Democratic candidate for President were entered.

President Eisenhower's name heads the GOP list.

Along with him are Sen. William F. Knowland (Calif.), ranking Republican of the Senate foreign relations committee, Sen. William E. Jenner (R., Ind.), and Lar Daly, Chicago upholsterer and perennial runner for office.

GEN. DOUGLAS MacArthur withdrew his name by sending a withdrawal slip to Secretary of State Carpentier Monday.

Jenner was expected to do the same before the Saturday noon deadline.

Knowland, however, announced in Washington Monday night that he would not ask that his name be withdrawn. He cited "uncertainties" about Mr. Eisenhower's intentions and • • •

COPY

(Confirmation Copy to be Mailed)

MO 50 PD

January 18 1956 Chicago Illinois

U. S. Senator William E Jenner
3601 Vanness NW Wash DC

I filed MacArthur for President Monday. Filing you Friday. Will you withdraw if MacArthur sticks and will you stick if MacArthur withdraws. Cause of America First in

politics must be officially represented on Illinois ballot. Next to MacArthur you are best. Request answer immediately. Phone Interocean 8-6985 or wire collect.

LAR DALY

9P

Mail copy to 12022 South Halstead Chgo 43
PU 5-0325
LAR DALY

(Western Union Telegram)

(Duplicate of Telephoned Telegram)

BB510 WM81 59) . . . .

W SND125 Govt PD—SN Washington DC 20 453PME—
Jan 20 PM 4 15

LAR DAY—(Daly) 12022 S. Halsted St.

Phone Interocean 8-6985 Chgo—

Please do not enter my name in any primaries. I plan during the next two years to carry out my obligations as Senator of the State of Indiana—

William E Jenner United States Senator—

(Chicago Tribune—1-27-56)

Jenner Takes
Name Out Of
State Primary

(Chicago Tribune Press Service)

Springfield, Ill., Jan. 26—Sen. Jenner [R., Ind.] has withdrawn his name from the Illinois Republican Presidential preferential primary April 10, State Secretary Carpentier announced today.

The withdrawal leaves President Eisenhower and Sen. Knowland [R., Cal.] listed, along with Lar Daly of Chicago.

EXHIBIT NO. 9.

(Peoria, Ill. Journal Star February 24, 1956)
By Edward F. Murphy,
Journal Star Political Writer

Daly Says He'll Quit Race
As Presidential Candidate

Attired in his Uncle Sam suit, of red, white and blue, Lar (America First) Daly, Chicago businessman, told a Republican rally at Itoo hall last night that the filing of President Eisenhower's name in the preferential Illinois primary was a "cowardly act."

Amid boos from the audience, Daly, a perennial candidate at Republican primaries, told the packed crowd he had written President Eisenhower, explaining his own personal reactions.

"It was cowardly because Gov. William Stratton was afraid to stand on his own two legs in a primary for renomination, and he kept other good Republican candidates off the ballot because they don't want to be labeled anti-Eisenhower," the America First Republican leader declared.

Daly said that Secretary of State Charles Carpentier would receive a letter today requesting that Daly's name be withdrawn from the April 10 Republican primary ballot.

(Chicago Daily News—2-24-56)

Lar Daly Quits
Delegate Race

Lar Daly said Friday he has asked the secretary of state to withdraw his name from the list of candidates in the April 10 presidential preference primary.

Daly, a perennial also-ran, remains a candidate for the Republican nomination for governor.

He campaigns as a "American First" party candidate.

(Chicago Tribune—April 10, 1956)

ILLINOIS PICKS
NOMINEES FOR
TOP OFFICES

Ballots on Adlai and Ike
Eisenhower on Ballot

President Eisenhower is on the G. O. P. ballot in the G. O. P. "popularity contest." So are *Sen. Knowland [R., Cal], who couldn't get his name taken off*, and Lar Daly, who has appropriated the nickname "America First" to aid his several forlorn candidacies in recent years.

(Broadcasting - Telecasting—March 12, 1956)

Daly Will Take Time Demand
to FCC If Networks Refuse

LAR DALY, Republican candidate for nomination for U. S. President and governor of Illinois in that state's primary April 10, told B-T Friday he will carry equal time appeal (early story page 42) to FCC if networks refuse request or if they fail to respond to his time bid by today (Mon.).

Mr. Daly also reported receipt of letter from Julius Brauner, secretary of CBS Inc., asking more information on his political aspirations.

Offices of Illinois Secretary of State and Chicago Board of Election Commissioners *confirmed Friday that Mr. Daly is within legal rights in entering name for both offices in Illinois primary* on basis it is preferential, not tantamount to nomination itself and not binding on Republican national convention delegates from Illinois.

Don Butler, chief clerk, Illinois Secretary of State's office, told B-T that, therefore, Mr. Daly is not actually candidate for President and that it would "carry no weight" in national convention.

Mr. Butler said he has so advised networks and that he has received similar queries from newspapers and other groups. He noted 19 states maintain presidential primaries.

EXHIBIT NO. 10.

Broadcasting Publications Inc
Sol Taishoff
President

Maury Long
Vice President

H. H. Tash
Secretary

B. T. Taishoff
Treasurer

BROADCASTING
TELECASTING

The Newsweekly of Radio and Television
Published Every Monday by Broadcasting
Publications Inc.
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Telephone: MEtropolitan 8-1022
Editor & Publisher
Sol Taishoff
Managing Editor
Edwin H. James
Senior Editors
Rufus Crater (New York), J. Frank Beatty,
Bruce Robertson
News Editor
Fred Fitzgerald

March 5, 1956

BROADCASTING
TELECASTING
Vol. 50, No. 10

IKE'S DECLARATION SETS OFF POLITICAL TIME FREE-FOR-ALL

President chooses radio-tv to explain his position
Democrats immediately demand equal time to answer
It's beginning of months of trouble for broadcasters

EIGHT grim months of political broadcasting loomed at the weekend, with television and radio caught between the two political parties and the equal-time requirements of the FCC and the Communications Act.

As the campaigning got away to a quarrelsome start last week, it became obvious that *tv and radio will serve as the primary means of influencing voters.* This will be especially true in the case of President Eisenhower, who has flatly rejected whistle-stopping.

The reason for the emphasis on electronics, especially tv: Campaigners *have a 100 million potential tv audience* when they go on the air (40 million sets by convention time), according to Sig Mickelson, CBS news-public affairs vice-president (page 32).

All networks, and most of their stations, carried President Eisenhower's historic news conference and address to the nation last Wednesday. As a result the networks found their moral integrity challenged by the Democrats because they adhered to legal and FCC tenets.

Developments moved swiftly and charges were met by counter-charges as the President's decision to stand for a second term was handled by broadcasters as a major news development.

The equal-time nemesis arose Thursday when Paul M. Butler, chairman of the Democratic National Committee, and F. Joseph Donahue, campaign manager for Sen. Estes Kefauver (D-Tenn.), asked ABC, CBS, NBC and Mutual for a chance to reply to the President's speech, claiming it was political in nature. Mr. Butler said he wanted "equal facilities for the Democratic party" in accordance with "established procedures."

When the requests were rejected by all networks, Mr. Butler promptly came back with a second request "in the name of fair play." He contended the networks were morally obligated to grant the time and pointedly hinted that if he didn't get it, Congress (controlled by Democrats)

might want to change the law "to assure fair treatment to both major political parties."

At the weekend these key trends and developments were observed on the political scene:

Sen. Lyndon Johnson (D-Tex.), majority leader, introduced a bill requiring broadcasters to provide presidential and vice presidential candidates of major parties with equal facilities. It has the approval of party leaders on both sides (page 84).

Sen. Richard L. Neuberger (D-Ore.), introduced a bill for government financing of political time on radio-tv (page 84).

Radio and tv *served both as media of immediacy* and as the President's personal contact with the people as he announced willingness to run at his news conference, and as he explained why and how in a *16-minute* broadcast.

(As many as 70 million persons are estimated to have heard the President's address.)

Network's dropped huge sums as they juggled schedules on short notice to keep the nation informed of Wednesday's momentous developments.

Democratic Chairman Butler called for revision of Sec. 315 and urged newspapers to adopt the radio-tv technique of giving both sides equal chance to tell their story (page 85). That happened Wednesday noon before the hassle developed over reply time following the President's network address.

GOP Chairman Leonard W. Hall announced Thursday the party will wage an "electronic age" campaign.

Chairman Hall said the Republicans total budget for the Republican National Committee and the Congressional

committees would run about $7 million, of which $2 million will be devoted to tv and radio. He displayed charts showing proposed blanketing of all sections of the country by electronic media before the November election.

The tv shows will include several appearances by President Eisenhower but the President may also make "several quick trips" to key sections. A special organization will be set up in Chicago to handle the campaign in the farm belt. Cabinet members, except Secretary of State Dulles, will hit the campaign trail in the autumn. Mr. Hall predicted Vice President Nixon will be the President's running mate.

President Eisenhower said in his Wednesday night radio-tv address that he would not "engage in extensive traveling and in whistle-stop speaking—normally referred to as barnstorming." He said he would reach the American people "*through means of mass communication.*"

At the Wednesday morning news conference he announced his decision to stand for a second term following countless requests by newsmen for him to state his desires on the matter. Having met their request, he answered very few questions. Instead he promised to give the answers in his broadcast. Thus radio-tv were first to tell the world about his decision to stand for renomination, with word going out over network and station facilities a few seconds after the morning conference was over.

All networks, in turning down the original requests of Chairman Butler and Sen. Kefauver for reply time, couched their answers in substantially the same language to the two individuals. The letters from the networks based their refusals on two points: *they would allot equal time to contending candidates for the nomination of the*

same party, but not to a different party, as in this case; President Eisenhower's talk was carried as a matter of public interest, and similarly, significant talks by Democratic leaders would be presented.

Robert W. Sarnoff, president of NBC, wrote Mr. Butler that NBC makes its facilities available to political leaders from time to time as a matter of public interest. He said the network carried the President's address because it was "a news event of unusual national importance." He pointed out that NBC attempts to maintain "fair balance" between representatives of the major parties, and in this connection, mentioned that NBC had provided free time to Adlai Stevenson on two recent occasions.

Robert E. Kintner, president of ABC, turned down the Democratic request with this wire: "We regret to inform you it is our decision that we are neither legally nor morally obligated to allocate time . . . ABC has followed and will continue a program of baanced and full presentation of various political points of view.

In declining the requests, John B. Poor, executive vice president of Mutual, said MBS had carried the President's address as "a special news feature in the public interest." Under the circumstances, he added, there is "no obligation on the part of the network to furnish equal time."

Mr. Mickelson pointed out the policy of CBS Radio and CBS-TV "*to give equal facilities to contending candidates for the nomination of the same party.*" In accordance with this policy, he said, both Sen. Kefauver and Mr. Stevenson have been on CBS Radio and CBS-TV. He said the network attempts to "keep an overall balance between Republican and Democratic viewpoints at all times."

In his second request for time to reply to the President, Mr. Butler said: (1) *the address was political and the*

President spoke as a candidate, outlining his program; (2) his request for time was based not on legal but on moral responsibilities of networks to treat both parties the same; (3) the network denials set a precedent *"that the President can campaign free of charge from now to the convention;* (4) some network officials are asking relaxation of equal time laws on the ground they can be trusted to act fairly, *and he deems the denials unfair;* (5) if the networks persist in their position, "I feel confident" Congress will study the problem and *take steps it deems necessary to assure fair treatment;* (6) Congress intended broacasters should serve all the people, not merely the party in control of the executive branch, and (7) millions *are deprived of the right* to hear from their opposition leadership in answer to the President.

Radio and tv film coverage of the President's news conference Wednesday was speeded to broadcasters when James Hagerty, Presidential news secretary, cleared the audio and visual versions in a little over a half-hour.

NBC had Peter Hackes, newsman, on West Executive Ave. beside the Executive Office with a mobile unit. After relaying the flash, Ray Scherer, commentator, joined him with a running account of the news conference on NBC TV. Richard Harkness handled radio to New York from a microphone outside the news conference room. The *Ernie Kovac Show* on NBC-TV and *Weekday* radio program carried the flash and commentaries.

NBC-TV carried the film account of the conference starting at 12:30 p.m., claiming a beat.

CBS had Charles Von Fremd on radio and tv with a flash at 10:52 a.m., after the news conference. Eric Sevareid, Griffing Bancroft and Bill Shadel worked from the corridor. The network had Len Cautela stationed with

Adlai Stevenson at the Savoy Plaza Hotel, New York, where Mr. Stevenson heard the Von Fremd flash on a radio set. After the President's evening talk to the nation, CBS-TV carried a 40-minute series of clips and commentaries handled by Douglas Edwards.

ABC tipped off its news staff by having an open mike in the corridor outside the press room, with the opening doors and rush for telephones as a signal. Bryson Rash, John Edwards, Martin Agronsky and Edward P. Morgan gave a 17-minute account that included a switch to the Senate Radio Gallery where Richard Rendell interviewed legislators. Albert Warner supplied commentary from the studio. ABC carried the radio tape of the conference at 1 p.m., and Mr. Rash fed a filmed version when the tv network opened at 3 p.m.

ABC Radio carried a special program from 7:30-7:55 p.m. on Wednesday, covering reaction to the President's decision around the world. The program was sponsored by Harris-Upham & Co., New York investment company, through Lewin, Williams & Saylor, New York. Included were reports from Washington, Paris, London, Los Angeles, Chicago and New York.

Mutual presented a special broacast Wednesday (11:30-11:45 a.m.) in which Mutual chief correspondent Robert Hurleigh explained newsmen's reaction to the news conference. From 3:30-4 p.m. MBC broadcast a transcribed recording of the conference.

NBC and CBS *pre-empted commercial tv time to carry the President's talk*, starting at 10 p.m. ABC rearranged its tv schedule shifting its sponsored boxing bouts telecast usually carried at 10 p.m. to 10:30 p.m. EST. It was estimated that CBS-TV's cancellation of *The United States Steel Hour* (Wed., 10-11 p.m. EST alternate weeks)

would cost the network about $100,000, covering time and production costs. Cancellation of NBC-TV's *This Is Your Life* was estimated to have cost the network about $50,000.

WGMS Washington put the radio tape of the conference on the air at 11:37 a.m. via its direct line from the White House.

The Wednesday night presidential address was broadcast from his office, with only one camera used. Robert Montgomery produced, avoiding production tricks. The President spoke from lengthy notes, which he read from the desk. After the 16-minute talk he introduced Mrs. Eisenhower. At that point the program seemed to get out of hand for about a minute as the President looked around, picked up his pile of notes and spoke to the little group of intimates in the office. The Star Spangled Banner was not played.

In Washington, WRC-TV keying NBC, went directly into a commentary whereas WTOP-TV inserted a commercial before switching to Douglas Edwards.

Voice of America had a tape recorder outside the executive offices after the Wednesday news conference, interviewing the sidewalk crowd. Radio Free Europe provided extensive service from all its transmitters.

Inquiries at the FCC about liability of networks to grant reply to the Democrats brought this position: Networks would be obligated to grant time *to any other qualified candidate* for the Republican presidential nomination. The Commission referred to its question-answer political primer dated *Sept. 8, 1954.* Question 18 of the primer states the matter this way:

Q. If the station makes time available to candidates seeking the nomination of one party for a particular of-

fice, does Sec. 315 require that it make equal time available to the candidates seeking the nomination of other parties for the same office?

A. No, the Commission has held that while both primary elections or nominating conventions and general elections are comprehended within the terms of Sec. 315, the primary elections or conventions held by one party are to be considered separately from the primary elections or conventions of other parties, and therefore, insofar as Sec. 315 is concerned, "*equal opportunities*" *need only be afforded legally qualified candidates for nomination for the same office at the same party's primary or nominating convention.*

BILL WOULD AMEND 'EQUAL TIME' PROVISO

Measure introduced by Sen. Lyndon B. Johnson would change Sec. 315 (a) of Communications Act making it necessary for stations to give same amount of air time to presidential, vice presidential candidates of major parties.

A Bill which would amend Sec. 315 (a) "equal political time" provisions of the Communications Act insofar as they affect candidates for the presidency or vice presidency was introduced Tuesday by *Senate Majority Leader Lyndon B. Johnson (D-Tex.).* [At Deadline, Feb. 27].

The bill (S 3308) also revises upward the legal amount a national political committee may spend in this year's presidential election—from the present $3 million to $12.3 million. The measure would raise the legal amounts that may be spent on behalf of candidates for U. S. senator and representative.

S 3308 would leave Sec. 315 (a) unchanged as it regards all candidates except those for the presidency and vice presidency. For the latter, networks and radio-tv broadcasters would have to furnish equal time for the presidential and vice presidential candidates for the major political parties only.

The measure was co-sponsored by *25 senators, including Senate Minority Leader William Knowland* (R-Calif.) *and the Democratic and GOP whips.* It is similar to a proposal by CBS President Frank Stanon which has been introduced in the Senate and House (S 2306 and HR 6810) and on which a House subcommittee has heard testimony [B.T., Feb. 6, et seq.].

The Stanton plan, however, applies to all candidates and only to news, forum, interview, debate and similar programs, while S 3308 applies to all radio and tv programs. The Stanton plan would relieve broadcasters entirely of the "equal time" requirements on the news-type programs, while the Johnson bill provides equal time to the major party presidential and vice presidential candidates.

Provision is made for candidates of major parties other than the Democratic and Republican Parties by a requirement that any other party, to qualify for equal time with the two major parties, must have polled 4% of the votes in the last presidential election or must present a petition with names totaling 1% of the vote at the past presidential election.

The Sec. 315 (a) amendment is designed to relieve broadcasters of the requirement that they furnish equal time to candidates of small • • •

UNITED STATES COURT OF APPEALS
For the Seventh Circuit

Lar Daly, Petitioner vs. United States of America and Federal Communications Commission, Respondents.	}	Civil Action No. 11946

MOTION (EMERGENCY) TO FILE RELEVANT AFFIDAVIT TO PRIME EXHIBIT OF PETITIONER'S PRINTED PETITION FOR REHEARING.

(Filed Mar 30 1957)

Now comes Lar Daly, Petitioner, by his Attorney, and states:

1. That on March 22, 1957, he filed his printed Petition for Rehearing with the Clerk of this Court.

2. That on March 29, 1957, Petitioner received in the United States mail the following affidavit from Charles F. Carpentier, Secretary of State of Illinois, which is hereto attached and part of this Motion.

3. That said affidavit is of extreme importance to Petitioner's Petition for Rehearing, in that Petitioner believes it sustains, beyond all doubt, that he was certified as a legally qualified candidate for President of the United States, on the Republican ticket, for the April 10, 1956, Illinois Primary Election; and that he so remained as a legally qualified candidate, uninterruptedly, from February 8, 1956, to April 10, 1956, inclusive.

4. Petitioner requests the Court that the attached affidavit be made part of his Prime Exhibit in his Petition for Rehearing, and that it be considered as a continuation

of Page 4a of the Appendix in said Petition for Rehearing.

Respectfully submitted,
/s/ Lar Daly
Petitioner

Robert A. Kahn
Attorney for Appellant
134 South La Salle Street
Chicago, Illinois
ANdover 3-2283

(Seal of the State of Illinois)

OFFICE OF THE SECRETARY OF STATE
Springfield

Charles F. Carpentier
Secretary of State

March 28, 1957

Lar J. Daly, President
American Stool & Chair Co.
844 West Vermont Street
Chicago 43, Illinois

Dear Mr. Daly:

In response to your letter of March 15, 1957, I am sending you the enclosed affidavit. Rather than using the form which you submitted, I have prepared a new affidavit, which is restricted to matters of fact and avoid conclusions of law.

Very truly yours,
(S) Charles F. Carpentier
Secretary of State

CFC:db

To Whom It May Concern

In my official capacity as Secretary of the Illinois State Electoral Board, the records relative to the filing of Primary Petitions of candidates for the President of the United States to be voted for April 10, 1956, indicate that

under date of January 23, 1956, a petition for Lar (America First) Daly was filed.

That the last day for filing primary petitions was January 23, 1956.

That the last day for candidates to withdraw their petitions was January 28.

That the State Electoral Board met pursuant to Statute on February 8, 1956, and certified to the various County Clerks in the State of Illinois, names of all candidates whose petitions were still on file including the name of Lar (America First) Daly.

That under date of February 21, 1956, a request was received from Lar (America First) Daly that his name be withdrawn and not printed on the ballots or voting machines in any Illinois County.

That under date of February 24, 1956, Lar (America First) Daly was advised that the State Electoral Board had met on February 8, 1956 and certified all names and that no provisions in the Election Laws of the State of Illinois provides for the State Electoral Board to reconvene and act upon the request for withdrawal.

(S) Charles F. Carpentier
Secretary of State
Secretary of State Electoral Board

Subscribed to and sworn to
before me this 27th day of
March, 1957.
Dorothy M. Dee
Notary Public
My Commission expires April 15, 1960
(Notary Seal)

UNITED STATES COURT OF APPEALS
For the Seventh Circuit
Chicago 10, Illinois
Tuesday, April 2, 1957

Before
Hon. Philip J. Finnegan, Circuit Judge
Hon. H. Nathan Swaim, Circuit Judge

Lar Daly, Petitioner, No. 11946 vs. United States of America, Respondent; Federal Communications Commission, Intervenor-Respondent.	Petition for Review of an Order of the Federal Communications Commission.

It is ordered by the Court that the petition of counsel for Lar Daly, filed herein on March 22, 1957, for a rehearing of the order of this Court entered on March 7, 1957, be, and the same is hereby, Denied.

UNITED STATES COURT OF APPEALS
For the Seventh Circuit
Chicago 10, Illinois

I, Kenneth J. Carrick, Clerk of the United States Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing ..... pages contain a true copy of the Petition for Review, filed December 28, 1956,

Motion to Dismiss, filed February 23, 1957,

Emergency Motion to correct Omission in Record, filed February 25, 1957,

Answer of Lar Daly, to Motion to Dismiss, filed March 4, 1957,

Order, entered March 7, 1957,

Petition for Rehearing, filed March 22, 1957.

Motion (Emergency) to file Relevant Affidavit, filed March 30, 1957, and Order, entered April 2, 1957, in

Cause No. 11946

Lar Daly, Petitioner,

vs.

United States of America, Respondent,
Federal Communications Commission,
Intervenor-Respondent.

as the same remains upon the files and records of the United States Court of Appeals for the Seventh Circuit.

In Testimony Whereof I hereunto subscribe my name and affix the seal of said United States Court of Appeals for the Seventh Circuit, at the City of Chicago, this twenty-third day of May A. D. 1957.

/s/ Kenneth J. Carrick
Clerk of the United States Court of Appeals for the Seventh Circuit.